

Remarks/Arguments

Reconsideration of the above-identified patent application in view of the present amendment is respectfully requested.

This amendment amends claim 29 to correct a typographical error and cancels claims 40-44.

The Office Action of February 27, 2004 provisionally rejected claims 35-39 under obviousness-type double patenting over Berenz et al., Serial Number 09/621,160 (now U.S. Patent No. 6,724,920), in view of Lemelson et al., U.S. Patent No. 6,400,835. Claims 40-44 were provisionally rejected under obviousness-type double patenting over Berenz et al., Serial Number 09/621,160 (now U.S. Patent No. 6,724,920), in view of Heslin, U.S. Patent No. 6,326,613.

The Office Action also rejected claims 35-37 as anticipated under 35 U.S.C. §102(e) by Lemelson et al. Claims 23-25, 27, 29-31, 33, and 34 were rejected as obvious over Son, U.S. Patent No. 6,323,761, in view of Lemelson et al.. Claims 26, 28, and 32 were rejected as obvious over Son in view of Lemelson et al. and further in view of one of Lu et al., U.S. Patent No. 5,331,544, Numazaki et al., U.S. Patent No. 6,144,366, or Heslin. Claim 38 was rejected as obvious over Lemelson et al. in view of Lu et al. Claim 39 was rejected as obvious over Lemelson et al. in view of Numazaki et al. Claims 40-42 were rejected as obvious over Lemelson et al. in view of Heslin et al. Claim 43 was rejected as obvious over Lemelson et al. in view of Heslin et al. and further in view of Lu et al. Claim 44 was rejected as obvious over Lemelson et al. in view of Heslin et al. and further in view of Numazaki et al.

With regard to the rejection of claims 23-34, a Declaration under 37 C.F.R. §1.131 is being filed with this Amendment. The Declaration presents facts showing conception of the invention of claim 23 in this country before the June 3, 2000 effective date of the application on which Son issued. The Declaration also presents facts establishing due diligence in this country from before the June 3, 2000 effective date of the application on which Son issued to the filing of the application of the present invention. In view of 37 CFR §1.131 Declaration, it is respectfully submitted that Son should be withdrawn as a reference. Therefore, allowance of claims 23-34 is respectfully requested.

The rejection of claim 35 as being anticipated by Lemelson et al. is respectfully traversed. Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 220 USPQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984). For a reference to anticipate a claim, "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." Scripps Clinic & Research Foundation v. Genentech Inc., 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

It is respectfully suggested that Lemelson fails to disclose each element of claim 35. Furthermore, it is respectfully suggested that a person of ordinary skill in the art would find a significant difference between the invention of claim 35 and the disclosure of Lemelson et al.

Claim 35 recites a processor that is responsive to the image signals from a detector. The processor includes face recognition software for analyzing the image

signals for facial features of the person. The processor compares facial features of the person to known facial features of authorized vehicle occupants to determine whether the person is an authorized vehicle occupant. The processor sounds an alarm and records the image of the person in a memory when the processor determines that the person is not an authorized vehicle occupant.

It is respectfully suggested that Lemelson et al. fails to teach or suggest a processor that sounds an alarm and records an image of the person in a memory when the processor determines that the person is not an authorized user. Lemelson et al., at Col. 12, lines 34-37, teaches that the system may sound an alarm when the system fails to recognize a person within a pre-specified time. Lemelson et al., however, provides no teaching that an image of the unauthorized person is taken and the alarm is sounded. Likewise, Lemelson et al. teaches that the system may be programmed with new faces to recognize. (Col. 12, lines 43-63). However, during the programming, Lemelson et al. fails to teach sounding an alarm. Moreover, one skilled in the art, given the teachings of Lemelson et al. would not find the system of Lemelson et al. to both sound an alarm and record an image of the unauthorized user. One of skill in the art will recognize that it is not desirable to sound an intruder alarm during the process of being programmed with new authorized faces. Thus, Lemelson et al. fails to disclose a processor that sounds an alarm and that records the image of the person in a memory when the processor determines that the person is not an authorized vehicle occupant. Therefore, it is respectfully suggested that the rejection of claim 35 as anticipated by Lemelson et al.

is improper and should be withdrawn. Allowance of claim 35 is respectfully requested.

Claims 36-39 depend from claim 35 and are allowable for at least the same reasons as claim 35.

With regard to the provisional double patenting rejection of claims 35-39, it is respectfully suggested that this rejection is improper. As set forth above with regard to claim 35, Lemelson et al. fails to disclose a processor that sounds an alarm and that records the image of the person in a memory when the processor determines that the person is not an authorized vehicle occupant. Since neither the claims of Application Serial No. 09/621,160 (now U.S. Patent No. 6,724,920) nor Lemelson et al. teaches or suggests a processor that sounds an alarm and records an image of the person in a memory when the processor determines that the person is not an authorized user, the double patenting rejection of claim 35 is improper and should be withdrawn. Therefore, allowance of claim 35-39 is respectfully requested.

In view of the foregoing, it is respectfully submitted that the above-identified patent application is in condition for allowance, and allowance of the above-identified patent application is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel J. Whitman', is written over a horizontal line.

Daniel J. Whitman
Reg. No. 43,987

TAROLLI, SUNDHEIM, COVELL,
& TUMMINO L.L.P.
526 Superior Avenue, Suite 1111
Cleveland, Ohio 44114-1400
Phone: (216) 621-2234
Fax: (216) 621-4072
Customer No.: 26,294